

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

**Status of Claims:**

No claims are currently being amended or cancelled.

Claims 19 and 20 are currently being added.

This amendment adds claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-20 are now pending in this application.

**Claim Rejections – Prior Art:**

In the Office Action, claims 1-4, 8-11 and 15-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0117983 to Ton et al. in view of U.S. Patent Publication No. 2004/0043771 to Shin; claims 5, 6, 12 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ton et al. in view of Shin and further in view of U.S. Patent Publication No. 2003/0185190 to Chitrapu et al.; and claims 7 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ton et al. in view of Shin and further in view of Chitrapu et al. and further in view of U.S. Patent Publication No. 2002/0085512 to Lehtimaki et al. These rejections are traversed with respect to the presently pending claims under rejection, for at least the reasons given below.

In its rejection of independent claims 1 and 8, the Office Action correctly recognizes that Ton et al. does not disclose a condition when, when detecting a congestion state of processing, the first user plane processing means transfers a first part of the processing to the second user plane processing means while maintaining a part of the processing at the first user plane processing means. However, the Office Action incorrectly asserts that paragraphs [0012] and [0013] of Shin disclose these features.

In particular, paragraph [0012] of Shin discloses that a MAC (medium access control) provides an upper RLC with logical channels, and whereby the MAC provides resource reconfiguration services. The MAC also provides a traffic volume monitoring function which

informs the RRC of the traffic volume on the logical channel. Paragraph [0013] of Shin discloses that the RLC provides services for radio access establishment or cancellation, such as establishment, sustenance, or cancellation of radio access bearers, functions of assignment, reconfiguration, and cancellation of radio resources required for radio resource access.

There is nothing in numbered paragraphs [0012] and [0013] of Shin that explicitly teaches that a first user plane processing means transfers a first part of processing to a second user plane processing means when a congestion state of processing is detected, and whereby a part of the processing is maintained at the first user plane processing means. It appears that the Office Action is reading too much into Shin concerning reconfiguration and monitoring of traffic, whereby Shin does not teach any of the specific features that the Office Action alleges that it teaches. To assert so would correspond to hindsight reconstruction of the claimed invention, which is an improper basis for rejection.

Accordingly, since Shin does not teach or suggest the features alleged in the Office Action, presently pending independent claims 1 and 8 are patentable over the combination of Ton et al. and Shin.

With respect to the presently pending dependent claims under rejection, those claims are patentable due to the specific features recited in those claims, as well as for their respective dependence on either base claim 1 or base claim 8.

For example, with respect to claims 17 and 18, those claims recite that the first user plane processing means controls the transfer of the second part of the processing to the second user plane processing means. The Office Action incorrectly asserts that paragraphs [0031] to [0035] of Shin teach these features. Rather, numbered paragraphs [0031] to [0035] of Shin teach that the MAC carries out a traffic volume monitoring. This does not meet the specific features recited in claims 17 and 18.

Accordingly, dependent claim 17 and 18 are patentable for these additional reasons.

**New Claims:**

New claims 19 and 20 have been added to recite additional features of the present invention that are believed to provide a separate basis of patentability for these claims. Support for the features recited in claim 19 may be found, for example, in Figure 3 of the drawings and in the description of that figure in the specification. Support for the features

recited in claim 20 may be found, for example, in Figure 6 of the drawings and in the description of that figure in the specification.

**Conclusion:**

Since all of the issues raised in the Office Action have been addressed in this Amendment and Reply, Applicant believes that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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